

House File 226 - Introduced

HOUSE FILE 226

BY WOLFE

A BILL FOR

1 An Act relating to the restoration of firearm rights for
2 persons convicted of certain felonies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.26, subsection 1, Code 2021, is
2 amended to read as follows:

3 1. A Except as provided in section 724.26A, a person who
4 is convicted of a felony in a state or federal court, or who
5 is adjudicated delinquent on the basis of conduct that would
6 constitute a felony if committed by an adult, and who knowingly
7 has under the person's dominion and control or possession,
8 receives, or transports or causes to be transported a firearm
9 or offensive weapon is guilty of a class "D" felony.

10 Sec. 2. NEW SECTION. **724.26A Restoration of rights.**

11 1. A person convicted of a class "D" felony, other than a
12 forcible felony or domestic abuse assault under section 708.2A,
13 subsection 5, may apply to the department of public safety for
14 the restoration of the right to possess, receive, or transport
15 or cause to be transported a firearm, if all of the following
16 apply:

17 a. Ten years have elapsed from the date of the applicant's
18 class "D" felony conviction.

19 b. The applicant has no pending criminal charges and no
20 felony convictions in the previous ten years.

21 c. The applicant has not been convicted of a violation of
22 this chapter.

23 d. The applicant's class "D" felony conviction did not
24 involve the use or threatened use of a dangerous weapon.

25 e. The applicant would otherwise be eligible to possess,
26 receive, or transport or cause to be transported a firearm.

27 2. The department of public safety shall conduct a criminal
28 background check on the applicant including an inquiry of the
29 national instant criminal background check system maintained
30 by the federal bureau of investigation or any successor agency
31 to determine if ten years have elapsed from the date of the
32 applicant's class "D" felony conviction, the applicant has
33 no pending criminal charges and no felony convictions in the
34 previous ten years, the applicant has not been convicted
35 of a violation of this chapter, the applicant's class "D"

1 conviction did not involve the use or threatened use of a
2 dangerous weapon, and the applicant would otherwise be eligible
3 to possess, receive, or transport or cause to be transported
4 a firearm.

5 3. *a.* If the application is approved by the department
6 of public safety, the department shall issue a certificate
7 of restoration of firearm rights to the applicant. The
8 certificate shall be proof that the firearm rights of the
9 applicant have been restored unless the rights are subsequently
10 taken away by a disqualifying event.

11 *b.* One copy of the certificate shall be delivered to the
12 applicant and one copy shall be delivered to the clerk of the
13 district court where the judgment of the class "D" felony is
14 of record.

15 *c.* If the department of public safety denies the
16 application, the department shall provide the applicant with
17 written notification of the denial and the reason for the
18 denial. An applicant may seek review of the denial pursuant to
19 subsection 4.

20 4. The applicant may file an appeal with an administrative
21 law judge by filing a copy of the denial with a written
22 statement that clearly states the applicant's reasons rebutting
23 the denial with a fee of ten dollars. Additional supporting
24 information relevant to the proceedings may also be included.

25 *a.* The administrative law judge shall, within forty-five
26 days of receipt of the applicant's request for an appeal, set
27 a hearing date. The hearing may be held by telephone or video
28 conference at the discretion of the administrative law judge.
29 The administrative law judge shall receive witness testimony
30 and other evidence relevant to the proceedings at the hearing.
31 The hearing shall be conducted pursuant to chapter 17A.

32 *b.* Upon conclusion of the hearing, the administrative
33 law judge shall order that the denial be either rescinded or
34 sustained. An applicant shall have the right to judicial
35 review in accordance with the terms of chapter 17A.

1 or transport or cause to be transported a firearm, if all of
2 the following apply: 10 years have elapsed from the date of
3 the applicant's class "D" felony conviction, the applicant
4 has no pending criminal charges or felony convictions in the
5 previous 10 years, the applicant has not been convicted of a
6 violation of Code chapter 724 (weapons), the applicant's class
7 "D" conviction did not involve the use or threatened use of a
8 dangerous weapon, and the applicant would otherwise be eligible
9 to possess, receive, or transport or cause to be transported
10 a firearm.

11 The bill requires the department of public safety to conduct
12 a criminal background check on the applicant including an
13 inquiry of the national instant criminal background check
14 system maintained by the federal bureau of investigation or
15 any successor agency to determine if the application meets the
16 requirements for restoration of firearm rights established in
17 the bill.

18 If the application is approved by the department of public
19 safety, the bill requires the department of public safety to
20 issue a certificate of restoration of firearm rights to the
21 applicant. The bill specifies the certificate shall be proof
22 the firearm rights of the applicant have been restored unless
23 the rights are subsequently taken away by a disqualifying
24 event.

25 The bill requires one copy of the certificate be delivered to
26 the applicant and one copy shall be delivered to the clerk of
27 the district court where the judgment of the class "D" felony
28 is of record.

29 If the department of public safety denies the application
30 under the bill, the department shall provide the applicant
31 with written notification of the denial and the reason for the
32 denial. The bill permits an applicant to seek review of the
33 denial.

34 If the applicant appeals the denial of the application
35 of the department of public safety, the bill requires the

1 administrative law judge to set a hearing date within 45 days
2 of receipt of the request for an appeal. The hearing may be
3 held by telephone or video conference at the discretion of the
4 administrative law judge. The administrative law judge shall
5 receive witness testimony and other evidence relevant to the
6 proceedings at the hearing. The hearing shall be conducted
7 pursuant to Code chapter 17A.

8 The bill does not prohibit an applicant from making an
9 application for restoration of citizenship rights pursuant to
10 Code sections 914.1 through 914.6.

11 The bill also makes conforming changes to Code sections
12 724.26 (possession, receipt, transportation, or dominion and
13 control of firearms, offensive weapons, and ammunition by
14 felons and others) and 914.7 (rights not restorable).